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CONCORD, N.H.

Mr. James J. Barry, Commissioner,
Department of Public Welfare
State House Annex
Concord, New Hampshire

Re: Inter-Lakes Cooperative School District

Dear Mr. Barry:

This is in response to your request of June 26 for our opinion as to the status of the Inter-Lakes Cooperative School District with respect to the correlation of the State Employees Retirement System with OASI.

Effective July 1, 1955, the Meredith and Center Harbor school districts were merged into a cooperative school district officially designated as the Inter-Lakes Cooperative School District. Both of the pre-existing districts were members of the State Employees Retirement System, but the Center Harbor district had no participating members. As of April 25, 1955, the date of the referenda for political subdivisions, records of the State Employees Retirement System had not been changed to include the Inter-Lakes Cooperative School District as an employer but instead listed the Meredith and Center Harbor school districts separately. Consequently an independent referendum was held for the Meredith School District and the Center Harbor District was grouped with Belknap County for referendum purposes. RSA 101:1, III as inserted by Laws 1955, chapter 301, Part II, section 5.

You ask if the Inter-Lakes Cooperative School District was legally a member of the State Employees Retirement System at the time of the referenda and if so whether the affirmative vote of the Meredith School District employees could adequately enroll eligible employees of the Inter-Lakes Cooperative School District under OASI.

We answer both questions in the affirmative.

Both of the pre-existing districts were members of the State Employees Retirement System on appropriate vote of the governing boards of the respective districts. RSA 100:29. We are advised by the

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Department of Education that the Inter-Lakes Cooperative School District assumed all of the functions of the local districts. Consequently the Inter-Lakes Cooperative School District assumed the outstanding obligations of the pre-existing districts. RSA 193:6, I. Included among these outstanding obligations was the election by the local districts to have its officers and employees eligible for participation in the State Employees Retirement System (RSA 100:29) and its duty to make contributions to the State Employees Retirement System on behalf of its employee members. RSA 100:36. It follows that the continued participation by members of the pre-existing local districts results from a positive statutory provision (RSA 100:29) and that additional authorization by the governing board of the newly created cooperative district was not necessary.

In addition it is noted that during the past year the Inter-Lakes Cooperative School District has made appropriate employer contributions to the State Employees Retirement System on behalf of its employee members.

The fact that the referendum was erroneously captioned as an independent referendum for eligible members of the Meredith School District does not affect the intrinsic validity of the referendum. All eligible employees of the District voted in the referendum and other requirements of 42 U.S.C. 419 d (3) with respect to the referendum were met.

Very truly yours,

Elmer T. Bourque
Assistant Attorney General

ETB/aml